Intermec Technologies Corp. v. Palm, Inc. Doc. 302 Att. 4

EXHIBIT E

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Attorneys for Defendant GOOGLE INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CLRB HANSON INDUSTRIES, LLC d/b/a INDUSTRIAL PRINTING, and HOWARD STERN, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

CASE NO. C 05-03649 JW

DEFENDANT GOOGLE INC.'S INTERROGATORIES TO PLAINTIFF CLRB HANSON INDUSTRIES, LLC (SET ONE)

PROPOUNDING PARTY: Defendant GOOGLE INC.

RESPONDING PARTY: Plaintiff CLRB HANSON INDUSTRIES, LLC

SET NUMBER: ONE

GENERAL INSTRUCTIONS

1. Within thirty (30) days from the date of service, and pursuant to Federal Rule of Civil Procedure 33, Defendant Google Inc. ("Defendant") requests that Plaintiff CLRB Hanson Industries, LLC ("Plaintiff") answer the following Interrogatories under oath and in writing,

based upon all knowledge reasonably available to Plaintiff, its employees, contractors, consultants, attorneys, investigators, agents, and all others acting on its behalf.

2. In answering these Interrogatories, quote the question propounded before each response.

3. In answering these Interrogatories, furnish all information available to you, including information in the possession of your employees, contractors, consultants, investigators, agents, and attorneys, or otherwise subject to your possession and/or control, and not merely information known of your own personal knowledge.

4. If you cannot answer a particular Interrogatory in full after exercising due diligence to secure the information to do so, answer to the extent possible, specify your inability to answer the remainder, state your efforts to secure responsive information, and state whatever knowledge you have concerning the unanswered portion. If any information responsive to any Interrogatory is withheld on the grounds of attorney-client privilege, attorney work product, and/or any other ground please produce a log listing the information so withheld.

5. If you object to any part of an Interrogatory, answer all parts of such Interrogatory to which you do not object and, as to each part to which you do object, set forth the specific basis for your objection(s).

6. These Interrogatories are continuing in nature, and your answers thereto must be amended and/or supplemented in accordance with the Federal Rules of Civil Procedure.

DEFINITIONS

A. As used herein, the terms "YOU" and "YOUR" refer to Plaintiff CLRB Hanson Industries, LLC, and its agents, representatives, employees, subsidiaries, affiliates, attorneys, or others acting on its behalf, including but not limited to Brett Hanson, Cindy Hanson, Hanson Industries, Secoa, Inc. and Industrial Printing Companies LLC.

B. As used herein, the connectives "and," "or," and "and/or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of the scope.

C. As used herein, the words "PERSON" and "PERSONS" shall include natural persons, corporations, firms, partnerships, associations, joint adventures, trusts, and estates.

D. As used herein, the word "GOOGLE" shall refer to defendant Google Inc.

E. As used herein, the word "COMPLAINT" refers to the Second Amended Complaint in this action.

F. As used herein, the term "CONTRACT" refers to the contract between YOU and GOOGLE to advertise on GOOGLE's AdWords program, which the Court in this Action has found to include the GOOGLE's AdWords Program Terms and Conditions, Frequently Asked Questions, and the terms of each advertising campaign submitted or modified by YOU in this Action.

INTERROGATORIES

INTERROGATORY NO. 1:

State all facts that support YOUR claim that YOU sustained damages or other injury as a result of any conduct and/or omission of GOOGLE.

INTERROGATORY NO. 2:

State the amount of monetary damages YOU claim that YOU sustained as a result of any conduct and/or omission of GOOGLE.

INTERROGATORY NO. 3:

Describe in detail how YOU calculated the amount of pecuniary damages YOU claim that YOU sustained as a result of any conduct and/or omission of GOOGLE.

INTERROGATORY NO. 4:

Identify the date on which YOU first realized that GOOGLE was periodically charging YOU in excess of 100% of your AdWords daily budget on certain days.

INTERROGATORY NO. 5:

Identify the date on which YOU first realized that it is GOOGLE's policy that, on any single day, the AdWords system may deliver up to 20% more ads than YOUR daily budget calls for to help make up for other days in which your daily budget is not reached.

INTERROGATORY NO. 6:

State the reason(s), including all supporting facts, why YOU continued to use GOOGLE's AdWords program even after YOU realized that GOOGLE was periodically charging you in excess of 100% of your AdWords daily budget on certain days.

INTERROGATORY NO. 7:

Identify with specificity the pecuniary damage(s) YOU claim YOU suffered as a result of GOOGLE delivering clicks in excess of 100% of YOUR AdWords daily budget.

INTERROGATORY NO. 8:

Identify with specificity any business opportunity YOU claim YOU lost as a result of GOOGLE delivering clicks in excess of 100% of YOUR daily budget, including without limitation the identity of the potential or existing customer involved and the date of the loss.

INTERROGATORY NO. 9:

For those days on which YOU claim that GOOGLE delivered clicks over 100% of YOUR daily budget, please identify each day on which YOU claim YOU could not meet the demand resulting from the over-delivery of clicks, and all facts in support of your contention.

INTERROGATORY NO. 10:

Identify all efforts YOU took, including all supporting facts, to mitigate the damages YOU claim YOU suffered as a result of GOOGLE's conduct as alleged by YOU in the COMPLAINT.

INTERROGATORY NO. 11:

Identify each case, including the case name, case number, the parties involved, and the name of the court, in connection with which YOU have ever been deposed.

INTERROGATORY NO. 12:

State the reason(s), including all supporting facts, why YOU have in the past paused and/or unpaused YOUR ads with GOOGLE's AdWords program.

INTERROGATORY NO. 13:

For each day on which the charges for any of YOUR ad campaigns exceeded the amount set as YOUR daily budget for the ad campaign, please describe in detail, including all supporting facts, the reason(s) why YOU did not pause YOUR campaign.

INTERROGATORY NO. 14:

Identify any training concerning AdWords, including without limitation any tutorials, YOU received from any PERSON, including the date of the training and the identity of the PERSON providing the training.

INTERROGATORY NO. 15:

If YOU contend that YOU have standing to sue GOOGLE under California Business & Professions Code sections 17200, *et seq.* and/or 17500, *et seq.*, please state all facts supporting YOUR contention.

INTERROGATORY NO. 16:

Please describe in detail the role and duties of each PERSON who was involved with any of YOUR AdWords advertisements.

INTERROGATORY NO. 17:

Identify each and every portion of YOUR CONTRACT with GOOGLE that YOU contend is void or voidable, and all facts supporting YOUR contention.

INTERROGATORY NO. 18:

For each AdWords ad campaign which YOU created, edited, or managed on behalf of any PERSON other than CLRB Hanson, LLC, identify the ad campaign, the related account name, the account number under which the campaign was created, the identity of the PERSON on whose behalf it was created, and the PERSON who paid for the campaign.

INTERROGATORY NO. 19:

If YOUR response to request for admission number 9 served with these interrogatories is anything other than an unqualified admission, state all facts upon which YOU based YOUR response.

INTERROGATORY NO. 20:

If YOUR response to request for admission number 10 served with these interrogatories is anything other than an unqualified admission, state all facts upon which YOU based YOUR response.

INTERROGATORY NO. 21:

If YOUR response to request for admission number 11 served with these interrogatories is anything other than an unqualified admission, state all facts upon which YOU based YOUR response.

DATED: August 25, 2008

PERKINS COIE LLP

By: ______________________________
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CLRB HANSON INDUSTRIES, LLC d/b/a INDUSTRIAL PRINTING, and HOWARD STERN, on behalf of themselves and all others similarly situated, Plaintiffs, v. GOOGLE INC., Defendant.	CASE NO. C 05-03649 JW **AMENDED PROOF OF SERVICE**

I, Susan E. Daniels, declare: I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 4 Embarcadero Center, Suite 2400, San Francisco 94111-4131.

On August 25, 2008, I served the foregoing document(s) described as follows:

1. **DEFENDANT GOOGLE, INC.'S REQUESTS FOR ADMISSIONS TO PLAINTIFF HOWARD STERN (SET ONE);**
2. **DEFENDANT GOOGLE INC.'S INTERROGATORIES TO PLAINTIFF HOWARD STERN, (SET ONE);**

3. **DEFENDANT GOOGLE INC.'S REQUESTS FOR ADMISSIONS TO PLAINTIFF CLRB HANSON INDUSTRIES, LLC, (SET ONE);**

4. **DEFENDANT GOOGLE INC.'S INTERROGATORIES TO PLAINTIFF CLRB HANSON INDUSTRIES, LLC, (SET ONE);**

5. **GOOGLE INC.'S RESPONSE TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS; and**

6. **GOOGLE INC.'S RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES.**

on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as stated on the attached service list, as follows:

☒ BY FEDERAL EXPRESS: by placing the document(s) listed above in a sealed Fed Ex envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Fed Ex agent for delivery.

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E-Mail: dshih@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1201 Third Avenue, Suite 3800
Seattle, Washington 98101-3000
Telephone: (206) 516-3880
Facsimile: (206) 516-3883

☒ BY ELECTRONIC MAIL
I caused said documents to be prepared in portable document format (PDF) for e-mailing and served by electronic mail as indicated on the attached service list.

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Executed on August 25, 2008, at San Francisco, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Susan E. Daniels